

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

EFRAIN CASADO,

Petitioner,

v.

Civil Action No. 1:19-00791

C. MARUKA, Warden,  
FCI McDowell,

Respondent.

**MEMORANDUM OPINION AND ORDER**

By Standing Order, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of findings and recommendation regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Tinsley submitted to the court his Proposed Findings and Recommendation ("PF&R") on March 25, 2021, in which he recommended that the court deny and dismiss grounds one, two, and three of petitioner's § 2241 petition for lack of subject matter jurisdiction and deny petitioner's motion for summary judgment (ECF No. 8), but leave this matter referred to Magistrate Judge Tinsley for additional proceedings concerning ground 4 contained in ECF No. 6. (ECF No. 9.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days and three mailing days in which to file objections to Magistrate Judge Tinsley's

Proposed Findings and Recommendation. The failure of any party to file such objections within the time allowed constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989). Neither party filed any objections to the PF&R within the required time period.<sup>1</sup> Accordingly, the court adopts the Findings and Recommendation of Magistrate Judge Tinsley as follows:

1. Petitioner's § 2241 petition is **DENIED** and **DISMISSED** as to grounds one, two, and three of his petition (ECF Nos. 1 and 2);
2. Petitioner's motion for summary judgment (ECF No. 8) is **DENIED**; and
3. This matter remains referred to Magistrate Judge Tinsley for additional proceedings concerning ground four, contained in ECF No. 6.


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<sup>1</sup> On March 31, 2021, petitioner filed a notice with the court that he was not receiving his legal mail. More specifically, he complained of a new rule apparently requiring that prison staff be present when inmates in the Special Housing Unit receive legal mail. He requested a copy of the docket sheet for this case the same day. When the Clerk attempted to send it to him, however, the envelope was returned with the note, "I/M Refused [sic] to sign for or accept mail." (See ECF No. 18.) Petitioner has not filed any additional notices or requests regarding his mail (or regarding his case at all) since last March.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record and any unrepresented parties.

**IT IS SO ORDERED** this 26th day of August, 2021.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge